

CONSTANTINE CANNON LLP

Lloyd Constantine
212-350-2702
lconstantine@constantinecannon.com

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VIA ECF AND FACSIMILE

Honorable George B. Daniels
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Mitre Sports International Limited. v. Home Box Office, Inc.*
(No. 08-CIV-9117)

Dear Judge Daniels:

Mitre objects to the admission of DX0098 and DX0100, which HBO intends to offer into evidence through the video deposition testimony of Rajesh Mayor and, with respect to DX0100, Ashok Nair. Both documents are irrelevant and inadmissible hearsay.

DX0098 is an email chain between Rajesh Mayor (a partner in Mayor & Company (“Mayor”), which in 2008 was one of the two manufacturers of Mitre-branded soccer balls in Jalandhar, India) and Sandro Vitiello of Regent Sports Corporation (“Regent”) (which in 2008 was the U.S. licensee of Mitre-branded soccer balls). The email is dated November 11, 2008, almost two months after Children of Industry (“COI”) was first telecast, and about two weeks after COI was no longer available on HBO. The email references “the legal battle Mitre is planning to get into,” and states that Mayor is “getting the goods stitched only & strictly from the registered and nearby locations which can be monitored by our monitors easily and repeatedly.” The email states that this will “have some impact on the deliveries only for the time being.”

DX0100 is an email chain between Ashok Nair of Mayor & Company, and Sandro Vitiello of Regent. It is dated January 15, 2009 – well after HBO stopped telecasting COI – and the subject is “FW: regent Mayor late shipments.” In response to Mr. Vitiello’s complaint about Mayor’s “consistent pattern” of late shipments, Mr. Nair states the shipments were delayed because Mayor “decided to get all the goods stitched in more controlled conditions, paid more money to stitchers” due to this lawsuit. The email also references “the Wal-Mart Ethical team who visited with us,” and states that Mayor was “under pressure because on the one hand Mitre

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was planning to take legal action against HBO and on the other hand if HBO collects more data/evidence it would weaken Mitre's case."

Both documents are inadmissible hearsay. They are out-of-court statements made by non-parties to this case, which HBO offers to prove the truth of the matters asserted. These documents are also irrelevant. Actions that non-party Mayor may or may not have taken in response to this lawsuit have no bearing on the claims or defenses asserted in this case. *See* Day 9 Tr. 832:18-837:9 (excluding post-litigation communications between HBO and Modells regarding this lawsuit).

For these reasons, the Court should exclude DX0098 and DX0100.

Respectfully submitted,

/s/ Lloyd Constantine